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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/071,497	02/08/2002	Creg G. Bradley	000618-1046-999	1834
20583	7590	03/17/2004	EXAMINER	
JONES DAY 222 EAST 41ST STREET NEW YORK, NY 10017			ZIRKER, DANIEL R	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- ☒ Responsive to communication(s) filed on 1/05/04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- ☒ Claim(s) 1-45 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-45 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

### Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

### Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. The Examiner notes applicants' submitted new drawing, which is deemed to be clearly acceptable.

3. Claim 43 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. More particularly, despite the recent claim amendments, the recited structure is believed to be quite confusing, essentially reciting some sort of intermediate kit type structure with multiple product-by-process limitations to several of the kit layer elements still being present. As such, it is respectfully submitted, the claim is both vague, indefinite and confusing.

4. Claims 1-45 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Narayanan, taken individually for claims 1-43 and 45, or, alternatively in view of either Franey or McCarty et al. for claims 1-45, substantially for the reasons set forth in paragraph No. 3 of Paper No. 0826, together with the following additional observations. With respect to applicants' remarks (Response, page 10, first and third complete paragraphs) the Examiner must again note that applicants have set forth arguments such as that Narayanan "cannot disclose or suggest

radiation curing", but it is respectfully submitted that this has not been proven on the record, nor has it been shown that even if applicants' contentions regarding the necessary requirements for reactive monomers or oligomers that are available for a curing action is true, it still has not been proven on the record that radiation curing produces a patentably distinct article from embodiments which are not radiation cured. Applicants have provided no showing to date, and with respect to their arguments (Response, page 11, second complete paragraph) pertaining to their reliance on the Lenz article the Examiner must respectfully submit that this document is nowhere to be found in the application record to date, applicants' remarks to the contrary notwithstanding. Furthermore, the brief cited passage from the article set forth in applicants Response is not seen as particularly pertinent to the issue at hand, namely the issue of whether or not it is obvious to utilize radiation curing of the formed tape, particularly in view of the fact that this is the only technical argument of any sort which is not otherwise essentially based on attorney's arguments. With respect to their lengthy argument concerning the patentability of claim 43 (Response, bridging paragraph, pages 11-12) the Examiner must respectfully submit that in its present form it is not quite clear just exactly what claim 43 is attempting to define.

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With respect to the prior art combinations of Narayanan in view of either Franey or McCarty et al, the Examiner can only state that applicants' central thesis that the art of curing polymers to radiation curing is "unpredictable" is a blanket allegation that has not been proven on the record. In summary, it is respectfully submitted that applicants have failed to rebut the prima facie of record.

5. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM

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THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Zirker whose telephone number is (571) 272-1486. The examiner can normally be reached on Monday-Thursday from 8:30 A.M. to 6:00 P.M. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (571) 272-1478. The fax phone number for this Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either private PAIR or public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dzirker:cdc

March 10, 2004

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 1300 1700

*Daniel Zirker*